



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/605,474 | 10/01/2003 | Philip Kortum | 1033-T00523 | 2473 |
| 60533 | 7590 | 11/13/2008 | EXAMINER | |
| TOLER LAW GROUP 8500 BLUFFSTONE COVE SUITE A201 AUSTIN, TX 78759 | | | NANO, SARGON N | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2457 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 11/13/2008 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/605,474 | Applicant(s) KORTUM ET AL. | |
| | Examiner SARGON N. NANO | Art Unit 2457 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/6/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. This office action is responsive to amendment filed on August 11, 2008.

Claims 1 – 20 are pending examination.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson et al. U.S. Patent No. 6,990,591 (referred to hereafter as Pearson). In view of Krumel U.S. Patent No. 7, 013, 482.

As to claim 1, Pearson teaches a material content setting adjustment system comprising:

at least one computer (see fig.1, Pearson discloses a computer connected to a network);

at least one interface mode facilitating communication between said at least one computer and a network (see fig. 1, Pearson discloses a computer connected to a network);

at least one interface mode adjustment having a plurality of operating mode positions (see col.10 lines 52 – 63 and fig. 4A and 4B, Pearson discloses a user interface displaying set policies of different modes or levels of communication); and

a controller coupled to said at least one interface mode adjustment and selectively determining passage of material content between said at least one computer and said at least one interface in response to position of said at least one interface mode adjustment wherein the at least one interface mode adjustment is dedicated for use with the controller to selectively determine passage of material content (see col.10 line 2 – col. 11 line 20, Pearson discloses a user selectable buttons which determine multiple level of communication security) .

Pearson teaches the invention as mentioned above. Pearson does not explicitly teach the physical switch having a plurality of operating mode. However in the same endeavor, Krumel teaches a method and system for firewall/data protection filtering data packet. krumel teaches employing network devices that are configured and or reconfigured with relatively simple toggles or other physical switches. It would have been obvious to one of the ordinary skill in the art a the time of invention to include a physical switch as disclosed by krumel in Person's invention to remove the requirement for a user to be trained in sophisticated computer and network configuration (see krumel col. 2 line 60 - col. 3 line 20).

As to claim 2, Pearson teaches a system as in claim 1 wherein said at least one interface is an interface selected from at least one of a gateway, a hub, a high-speed communication interface, and a router (see col.6, lines 5 - 20).

As to claim 3, Pearson teaches a system as in claim 1 wherein said controller is contained at least partially within said at least one computer (see figs 4A and 4B).

As to claim 4, Pearson teaches a system as in claim 1 wherein said controller is contained at least partially within said at least one interface (see col. figs. 4A and 4B).

As to claim 5, Pearson teaches a system as in claim 1 wherein said plurality of operating mode positions correspond with a plurality of operating modes of said controller (see col.10 lines 52 - 62).

As to claim 6, Pearson teaches a system as in claim 1 wherein said controller has a plurality of operating modes that comprise modes selected from at least two of a blocking mode, a learning mode, a partially blocking mode, and a non-blocking mode (see col. 11 lines 8 - 21).

As to claim 7, Pearson teaches a system as in claim 1 wherein said at least one interface mode adjustment switch has a firewall activated position and a firewall deactivated position (see col.12 lines 26 – 43).

As to claim 8, Pearson teaches a system as in claim 1 wherein said interface is coupled to said network via a connection selected from at least one of a high-speed communication connection, a digital subscriber line connection, a communications-unity antenna television connection, a satellite connection, a wireless connection, a broadband cable connection, analog connection, and an Internet connection (see fig. 2).

As to claim 9, krumel teaches a system as in claim 1 wherein said at least one interface mode adjustment switch is a switch selected from at least one of a toggle switch, a rotary switch, a push button switch, a rocker switch, a slide switch, and a keylock switch (see krumel col. 2 line 60 - col. 3 line 20).

As to claim 10, Pearson teaches the method of claim 1 wherein said at least one interface mode adjustment switch is hardware-based (see col.10 lines 52 – 63 and figs. 4A and 4B).

As to claim 11, Pearson teaches a system as in claim 1 wherein said at least one interface mode adjustment switch is mounted in at least one of said at least one computer, said at least one interface, and at least one housing (see col. 10 lines 52 – 63 and figs. 4A and 4B).

As to claim 12, Pearson teaches a material content setting adjustment system comprising:

- at least one computer (see fig.1, Pearson discloses a computer in a connected to a network);

- at least one interface facilitating communication between said at least one computer and a network (see fig.1, Pearson discloses a computer in a connected to a network)

- at least one interface mode adjustment switch having a plurality of operating mode selections comprising a learning mode selection (see col. 1 lines 52 – 63 and figs 4A and 4B, person discloses a user interface that displays set policies for different

Art Unit: 2457

modes or levels of communications); and a controller coupled to said at least one interface mode adjustment , having a plurality of operating mode selections, and selectively determining passage of material content between said at least one computer and said at least one interface in response to said plurality of operating mode selections wherein the learning mode the controller is able to reduce the security level for tasks without requiring a user to make adjustment in the interface (see col. 10 line 52 – col. 11 line 20 , Pearson discloses user selectable buttons which determine the security level of communication in a network). Pearson does not explicitly teach the physical switch having a plurality of operating mode. However in the same endeavor, Krumel teaches a method and system for firewall/data protection filtering data packet. krumel teaches employing network devices that are configured and or reconfigured with relatively simple toggles or other physical switches. It would have been obvious to one of the ordinary skill in the art a the time of invention to include a physical switch as disclosed by krumel in Person's invention to remove the requirement for a user to be trained in sophisticated computer and network configuration (see krumel col. 2 line 60 - col. 3 line 20).

As to claim 13, Pearson teaches a system as in claim 12 wherein said at least one interface mode adjustment switch is software actuated (see col. 3 lines 52 - 67).

As to claim 14, Pearson teaches a system as in claim 12 wherein said plurality of operating mode positions have an on screen representation (see figs. 4A and 4B).

As to claim 15, Pearson teaches a system as in claim 12 wherein status of said at least one interface mode adjustment switch is continuously shown on said at least one computer desktop (see figs. 4A and 4B).

Claims 16 -20 do not teach or define any new limitations above claims 1-15 and therefore are rejected for similar reasons.

Response to Arguments

Applicants arguments have been fully considered but they are not persuasive.

In the remarks applicants argue in substance that:

A) Pearson and Kumar Krumel fail to teach a controller selectively determining passage of material content between at least one computer and at least one interface in response to a position of at least one interface mode adjustment switch as in claim 1.

In response to A, Pearson teaches an interface through which a user is able to control the passage of data by selecting or adjusting a communication device, such as a firewall, security policy by using modification buttons. Each of these modification buttons represents a distinct level of computer security. Pearson discloses three distinct security policies, high, medium and low which are utilized to configure the firewall of the communication device that is connected to a local area network (see col.10, line 39 – col. 11). Therefore the disclosure of Pearson's multiple security policy meets the scope of the claimed limitation.

B) Pearson system cannot be combined with Krumel's real time data protection device.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

C) Kumar fails to teach a controller selectively determining passage of material content between at least one computer and at least one interface in response to a position of at least one interface mode adjustment switch as in claim 1.

The examiner respectfully disagrees and in reply to that points out the following:

Applicants arguments are not directed to the combination of the references and the arguments are directed to one reference at a time. In reply, the rejections are made under 103 in view of Pearson and Krumel. When reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In *re Preda*, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and *In re Shepard*, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In *re Sovish*, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed

Art Unit: 2457

to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art To complement that which is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARGON N. NANO whose telephone number is (571)272-4007. The examiner can normally be reached on 8 hour.

Art Unit: 2457

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sargon N Nano/
Examiner, Art Unit 2457
Nov. 8, 2008

/LaShonda T Jacobs/

Primary Examiner, Art Unit 2457